

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

|                                 |   |                                  |
|---------------------------------|---|----------------------------------|
| In the Matter of                | ) | Case Nos.: <b>10-C-04555-LMA</b> |
|                                 | ) | 11-C-16201 (Cons.)               |
| <b>JEFFREY ROBERT DREILING,</b> | ) |                                  |
|                                 | ) | <b>DECISION AND ORDER OF</b>     |
| <b>Member No. 221285,</b>       | ) | <b>INVOLUNTARY INACTIVE</b>      |
|                                 | ) | <b>ENROLLMENT</b>                |
| A Member of the State Bar.      | ) |                                  |
| _____                           | ) |                                  |

Respondent Jeffrey Robert Dreiling (respondent) was convicted on two separate criminal matters. His convictions included violating Nevada Revised Statute (NRS) 453.336 (possession of a controlled substance), a felony; and NRS 484.379 and 484.3792 (driving under the influence), a misdemeanor. Upon finality of the convictions, the review department issued orders referring these matters to the hearing department for a hearing and decision recommending the discipline to be imposed if the facts and circumstances surrounding the violations involved moral turpitude or other misconduct warranting discipline. Respondent failed to participate either in person or through counsel, and his default was entered. The State Bar filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>1</sup>

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<sup>1</sup> Unless otherwise indicated, all references to rules are to this source. Rule 5.345(C) makes the default procedures in rules 5.80-5.86, with certain exceptions, applicable in conviction proceedings.

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that if an attorney's default is entered for failing to respond to the notice of hearing on conviction, and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.<sup>2</sup>

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied, and therefore, grants the petition and recommends that respondent be disbarred from the practice of law.

### **FINDINGS AND CONCLUSIONS**

Respondent was admitted to practice law in this state on December 3, 2002, and has been a member since then.

#### **Procedural Requirements Have Been Satisfied**

On April 18, 2013, the State Bar Court filed and properly served two notices of hearing on conviction (for case nos. 10-C-04555 and 11-C-16201) on respondent by certified mail, return receipt requested, at his membership records address.<sup>3</sup> The two notices of hearing on conviction notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.345.)

Thereafter, Deputy Trial Counsel Tammy Albertsen-Murray attempted to reach respondent by (1) calling him at his membership records telephone number; (2) sending an email message to respondent's email address included in his membership records data;<sup>4</sup> (3) searching

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<sup>2</sup> If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(E)(2).)

<sup>3</sup> These cases were subsequently consolidated.

<sup>4</sup> Effective February 1, 2010, all attorneys are required to maintain a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

Lexis/Nexis and other internet databases for alternative contact information; and (4) contacting the Nevada Department of Corrections.

Respondent failed to file a response to the two notices of hearing on conviction. On June 21, 2013, the State Bar properly filed and served a motion for entry of respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar deputy trial counsel declaring the additional steps taken to provide notice to respondent. (Rule 5.80.) The motion also notified respondent that if he did not timely move to set aside his default, the court would recommend his disbarment.

Respondent did not file a response to the motion, and his default was entered on July 9, 2013. The order entering the default was served on respondent at his membership records address by certified mail, return receipt requested. The court also ordered respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and he has remained inactively enrolled since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On January 13, 2014, the State Bar filed and served a petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that (1) it has had no contact with respondent since the default was entered; (2) respondent has no other disciplinary matters pending; (3) respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on February 6, 2014.

## **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of respondent's default, the factual allegations set forth in the State Bar's statement of facts and circumstances surrounding respondent's convictions are deemed admitted and no further proof is required to establish the truth of such facts. (Rules 5.345(C) & 5.82.) As set forth below in greater detail, respondent's convictions support the conclusion that respondent violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

### **1. Case Number 10-C-04555**

Respondent was convicted of violating NRS 453.336 (possession of a controlled substance). On or about March 26, 2010, respondent possessed a Schedule I controlled substance, to wit: methamphetamine. On June 30, 2010, respondent pled guilty to a violation of NRS 453.336.

Possession of a controlled substance is a crime that may or may not involve moral turpitude or other misconduct warranting discipline, depending upon the facts and circumstances surrounding the conviction. The court finds that the facts and circumstances surrounding respondent's conviction do not involve moral turpitude, but do constitute other misconduct warranting discipline. Conviction of a crime involving other misconduct warranting discipline is grounds for discipline. (*Young v. State Bar* (1990) 50 Cal.3d 1204.)

### **2. Case Number 11-C-16201**

Respondent was convicted of violating NRS 484.379 and 484.3792 (driving under the influence). On or about March 14, 2009, respondent was arrested for driving while under the influence of an intoxicating liquor or with a blood-alcohol content of .08 percent or more. On April 28, 2009, respondent pled guilty to violating NRS 484.379 and 484.3792.

Driving under the influence of alcohol is a crime that may or may not involve moral turpitude or other misconduct warranting discipline, depending upon the facts and circumstances surrounding the conviction. The court finds that the facts and circumstances surrounding respondent's conviction do not involve moral turpitude, but do constitute other misconduct warranting discipline.

### **Disbarment is Recommended**

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and respondent's disbarment is recommended. In particular:

(1) the notices of hearing on conviction were properly served on respondent under rule 5.25;

(2) reasonable diligence was used to notify respondent of the proceedings prior to the entry of his default, as he was properly served with the notices of hearing on conviction and the State Bar made various efforts to locate respondent, including: calling his membership records telephone number; emailing his membership records email address; searching Lexis/Nexis and other internet databases for alternative contact information; and contacting the Nevada Department of Corrections.

(3) the default was properly entered under rule 5.80; and

(4) the factual allegations in the statement of facts and circumstances surrounding respondent's convictions deemed admitted by the entry of the default, support a finding that respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

Despite adequate or actual notice and opportunity, respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

## **RECOMMENDATION**

### **Disbarment**

The court recommends that respondent Jeffrey Robert Dreiling be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

### **California Rules of Court, Rule 9.20**

The court also recommends that respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

### **Costs**

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

## **ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Jeffrey Robert Dreiling, State Bar number 221285, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: February \_\_\_\_, 2014

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LUCY ARMENDARIZ  
Judge of the State Bar Court